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FILED

Date 9/26/13 By *Susan Saylor*

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2014-18

12 **BRIAN CLAY GRAY**
13 555 North Guild Avenue
Lodi, CA 95240

A C C U S A T I O N

14 **Field Representative License No. FR 48625**

15 Respondent.

16
17 Susan Saylor ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of
21 Consumer Affairs.

22 2. On or about March 20, 2013, the Board issued Field Representative License Number
23 FR 48625, Branch 3, to Brian Clay Gray ("Respondent"). The license was in full force and effect
24 at all times relevant to the charges brought herein and will expire on June 30, 2015, unless
25 renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 8620 provides; in pertinent part, that
28 the Board may suspend or revoke a license when it finds that the holder, while a licensee or

1 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
2 of a suspension may assess a civil penalty.

3 4. Code section 8625 states:

4 The lapsing or suspension of a license or company registration by operation of
5 law or by order or decision of the board or a court of law, or the voluntary surrender
6 of a license or company registration shall not deprive the board of jurisdiction to
7 proceed with any investigation of or action or disciplinary proceeding against such
licensee or company, or to render a decision suspending or revoking such license or
registration.

8 STATUTORY PROVISIONS

9 5. Code section 8649 states:

10 Conviction of a crime substantially related to the qualifications, functions, and
11 duties of a structural pest control operator, field representative, applicator, or
registered company is a ground for disciplinary action. The certified record of
conviction shall be conclusive evidence thereof.

12 COST RECOVERY

13 6. Code section 125.3 provides, in pertinent part, that the Registrar may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE

18 (Conviction of Crimes)

19 7. Respondent is subject to discipline under Code section 8649, in that on or about
20 May 22, 2013, in the case of *People v. Brian Clay Gray*, (Super. Ct. Yuba County, 2013, Case
21 No. CRF13-273), Respondent was convicted by the Court on his plea of guilty of violating three
22 (3) counts of Penal Code section 261.5(d) (unlawful sexual intercourse), felonies; three (3) counts
23 of Penal Code section 288(c)(1) (lewd acts with a child), felonies; and one (1) count of Penal
24 Code section 288.3 (contact with a minor for sex crimes), a felony. The crimes are substantially
25 related to the qualifications, functions or duties of a field representative. The circumstances of
26 the crimes were that between January 23, 2012, and October 31, 2012, Respondent engaged in
27 acts of unlawful sexual intercourse with a minor under the age of 16 years old at a church,
28 summer camp, and motel. In addition, between November 1, 2012, and January 22, 2013,

1 Respondent willfully and lewdly committed lewd or lascivious acts upon or with the body or any
2 part or member thereof of a child 14 or 15 years old, when Respondent was at least 10 years older
3 then the child, with the intent of arousing, appealing to or gratifying the lust, passions or sexual
4 desire of himself or said child. Furthermore, between January 23, 2012, and January 22, 2013,
5 Respondent willfully and unlawfully contacted or communicated with a minor, or attempted to
6 contact or communicate with a minor, who knows or reasonably should know that the person is a
7 minor with intent to commit an offense.

8 OTHER MATTERS

9 8. Code section 8620 provides, in pertinent part, that a Respondent may request that a
10 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,
11 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made
12 at the time of the hearing and must be noted in the proposed decision. The proposed decision
13 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

14 9. Pursuant to Code section 8654, if discipline is imposed on Field Representative
15 License Number FR 48625, issued to Respondent, then Respondent shall be prohibited from
16 serving as an officer, director, associate, partner or responsible managing employee of a licensee,
17 and any licensee which employs, elects, or associates Respondent shall be subject to disciplinary
18 action.

19 PRAYER

20 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Structural Pest Control Board issue a decision:

22 1. Revoking Field Representative License Number FR 48625, issued to Brian Clay
23 Gray;

24 2. Revoking any other license for which Brian Clay Gray is furnishing the qualifying
25 experience or appearance;

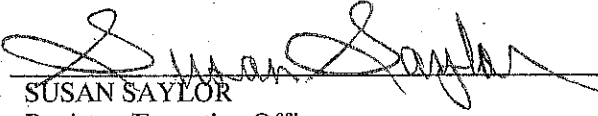
26 3. Prohibiting Brian Clay Gray from serving as an officer, director, associate, partner,
27 qualifying manager or responsible managing employee of any registered company during the
28

1 period that discipline is imposed on Field Representative License Number FR 48625, issued to
2 Brian Clay Gray;

3 4. Ordering Brian Clay Gray to pay the Structural Pest Control Board the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code section 125.3; and,

6 5. Taking such other and further action as deemed necessary and proper.

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8
9 DATED: 9/26/13


10 SUSAN SAYLOR
11 Registrar/Executive Officer
12 Structural Pest Control Board
13 Department of Consumer Affairs
14 State of California
15 Complainant

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